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PART--I-- Orders and Notifications by the Government of Tripura, The High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA OFFICE OF THE MEMBER-SECRETARY STATE LEVEL SCRUTINY COMMITTEE (DIRECTORATE FOR WELFARE OF SCH.CASTES) TRIPURA, AGARTALA,

No.F.2-144(PTL-15)/SCW/GL/08/23036-42

Dated, Agartala, the 22nd February, 2024

To Sri Bimal Chandra Sarkar, S/O. Lt. Amulya Sarkar, of Vill. & P.O.-Nalkata, P.S.-Pecharthal, Unakoti Tripura.

Subject: - Cancellation of SC certificate.

Sir,

I am sending herewith a copy of the order dated 16-02-2024 of the State Level Scrutiny Committee (SLSC) in connection with cancellation of your SC certificate for your information.

Enclo: - A copy of order dated 16-02-2024.

Yours faithfully,

Member-Secretary,
State Level Scrutiny Committee,
(Director for Welfare of Sch. Castes)

GOVERNMENT OF TRIPURA ORDER SHEET

FORUM: STATE LEVEL SCRUTINY COMMITTEE [CONSTITUTED AS PER PROVISION CONTAINED IN RULE 7A OF THE TRIPURA SCHEDULED CASTE AND SCHEDULED TRIBES RESERVATION RULES, 1992 (AS AMENDED)]

State of Tripura (Director, Welfare of Sch. Castes, Go	ovt. of Tripura) Prosecution.
2	VERSUS
Sri Bimal Chandra Sarkar	
S/O.Lt. Amulya Sarkar	
of Vill & P.ONalkata,	
P.SPecharthal, Unakoti Tripura	Opposite Party.
Counsel of the Prosecution:-	Mr. Debesh Ch. Ray & Mr. Ratan Dutta, Ld. Advocate.
Counsel of the Opposite Party:-	Shri Dibyendu Sarkar & Kausik Nath, Ld. Adyocate.

S1. No.	DATE	FINAL ORDER	REMARKS
1	2	3	4
1.	16.02.2024	The case was placed before the State Level Scrutiny Committee	
		(hereinafter referred to as Committee) on 11.05.2015, by Director,	
		Welfare of Sch. Castes, Govt. of Tripura.	
		2. On scrutiny of the available record, the Committee found that, an	
	- 12	accusation dated 22.04.1989 was received by the Director of SC	
		Welfare, from one Haridas Malakar, Machmara, North Tripura and	
		other Shishir Kumar Sarkar, Machmara, North Tripura on	
		22.04.1989. The main issue of the complaint is that Sri Bimal Sarkar,	
		S/O. Amulya Sarkar, Vill & P.O. Nalkata, Pecharthal, Chailengta, Asstt.	
		Teacher, Fishari para School, Madhyamik, had obtained SC certificate	
		by misrepresentation of facts.	
	1.01	3. On receipt of the complaint, it was referred to the Superintendent	•
	***	of Police (Vigilance), Govt. of Tripura, Agartala on 02.08.2004 to	
		investigate into the community status of Sri Bimal Sarkar. The Sub-	
		Divisional Magistrate, Dharmanagar, North Tripura was also	
	2	requested for an enquiry and to submit report on 05.11.2012. The	
		Block Development Officer, Pecharthal R.D. Block, Unakoti Tripura,	
		was subsequently requested to get the caste status of Sri Bimal	
	1.0	Sarkar verified, through the SC Welfare Sub-Committee, Pecharthal	
		R.D. Block on 05.11.2012. The Sub-Divisional Magistrate, Kumarghat,	
270		Unakoti Tripura was also requested for an enquiry and to submit	
			Page- 1 of
		report on 18.03.2014.	

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- 4. The Deputy Superintendant of Police, Special Vigilance Cell, Tripura, Agartala vide Verification Report No.F.2(77)-VIG/2004/SC(N)/37/482 dt. 07th March, 2005 had forwarded the Enquiry Report of the Enquiry Officer, Shri Subhash Chandra Sinha, SI, Special Vigilance Cell, Tripura Camp Kailashahar. In the Vigilance Report dt. 07th March, 2005 it is mentioned that Sri Bimal Ch. Sarkar (hereinafter called as the O.P) belong to Namasudra community which is recognized as Scheduled Caste. So the Scheduled Caste Certificate issued by SDO (DMN) Vide No.08/SDO DMN/80 dated 15/01/81 is genuine /correct.
- 5. The SDM, Dharmanagar has informed on 26/04/2013 that verification of caste status of Bimal Sarkar were under Kumarghat Sub-Division. The Sub-Divisional Magistrate, Kumarghat, Unakoti Tripura on the other hand, submitted verification report, vide No.F.10(40)/SDM/KGT/SCW, OBC & RM/2013-14/5575-578 dt. 29.12.2014, along with a copy of a report of the Block Development Officer, Pecharthal R.D. Block along with a copy of resolution dt. 03.09.2014 of the SC Welfare Sub- Committee, Pecharthal R.D. Block stating that Sri Bimal Sarkar does not belong to Scheduled Caste, rather to Other Backward Classes (OBC).

Proceeding before the Committee:

- 6. Since, the matter was referred to the State Level Scrutiny Committee, the Committee commenced the proceeding accordingly and in the course of the proceeding the Prosecution side examined total four Prosecution Witnesses, namely the (PW-1) Sri Jayanta Dey, (the then SDM, Kumarghat), Vigilance Enquiry Officers Sri Subhash Chandra Sinha (PW-2), Sri Dipak Malakar, Ex-Chairman, SC Welfare Sub- Committee, Pecharthal R.D. Block (PW-3), Sri Satyendra Sukla Baidya, Ex- Member, SC Welfare Sub- Committee, Pecharthal R.D. Block (PW-4). On the other hand, the O.P. also adduced three Defense Witnesses, namely Sri Prabir Sarkar (DW-1), the O.P himself as DW-2 and Sri Satya Bhushan Sarkar (DW-3) who were examined cross-examined and accordingly discharged. Evidence both sides was closed accordingly.
- 7. Argument heard on 02.09.2023.

Points to be adjudicated by the Committee:

8. The Committee, on careful examination of all the facts & circumstances and the supporting documents & other evidences, adduced by both the sides, had to decide the following issues, for arriving at a judicious decision, in this respect:-

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- (i) Why the report of the Vigilance enquiry was ignored by the then Director, SC Welfare and why it was again referred to the SDM for report?
- (ii) Whether there is sufficient evidence on record to disbelieve the Caste Status of the OP?
- (iii) Whether the Caste Certificate of the OP is liable to be cancelled?

Evaluation of the evidences by the Committee:

9. (i) On meticulous examination of records, it is noticed that, there are contradictory reports from the Vigilance Enquiry Officer and from the local SC Welfare Sub-Committee, Pecharthal RD Block. Furthermore, in another case, adjudicated by this committee relating to the Caste status of one Shri Ratan Sarkar, who is admittedly a full blooded brother of this Opposite Party, the Caste Certificate of that Shri Ratan Sarkar was cancelled and confiscated on the basis of the statement of the said person, through an affidavit, wherein the person himself admitted that he belongs to OBC Kapali Community and accordingly he has surrendered his Caste Certificate to the Issuing Authority.

(ii)The Committee thoroughly examined the report of the Vigilance Inquiry Officer, wherein it was observed that, Shri Bimal Chandra Sarkar (O.P) belongs to Namasudra Community, which is recognized as Schedule Caste in this State. From his report and from the statement on oath submitted by the Vigilance Enquiry Officer, it transpired that, the vigilance enquiry report was submitted only after consulting 4 (Four) Certificates relating to the O.P, namely the Citizenship Certificate, the Admit Card of TBSE, copy of Panchayat Family Register and the SC Certificate which itself is under challenge. It is found from those Certificates that, the Caste status of the Opposite Party is not indicated in any of those documents. So those documents can't be treated as supportive for the Caste status of the O.P.

On cross examination, the Vigilance Inquiry Officer admitted that, he has not visited the school of the O.P, nor has he consulted any school record to confirm the Caste status of the O.P. It is found, the Vigilance Enquiry Officer has recorded the statement of 3 (three) witnesses including the O.P himself. The two other Defence witnesses have stated in favour of the Caste status of the O.P, but surprisingly they were not produced by the O.P before the Committee.

So the considered opinion of the Committee is that, the vigilance inquiry was not done in accordance with the procedure prescribed by the Hon'ble Supreme Court of India in Kumari Madhuri Patil's case and as such the finding of the Enquiry Officer, being infirm from legal perspective as well as from practical perspective, cannot be believed.

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From the examination and cross examination of the defense witnesses, particularly the opposite Party himself, it appears that the OP, in his cross examination was asked about the fact of surrender of the Caste Certificate by his full blooded brother SrI Ratan Sarkar, but the OP did not categorically deny the statement of his brother nor has he indicated any point as to why his brother has surrendered the Caste Certificate.

On the other hand, SC Welfare Sub-Committee categorically denied the Caste status of the Opposite Party and members of that Committee, on their appearance before the SLSC, has confirmed the resolution passed in the meeting, in which the Caste status of the OP was denied. The concerned SDM has forwarded the resolution of the SC Welfare Sub-Committee and believed upon that resolution only.

In view of the above findings, the observation of this Committee can be summarized thus: -

(i)The report of the Vigilance Inquiry Officer suffers from infirmities and thus cannot be accepted.

(ii)The other documents, the report of the SC Welfare Sub-Committee forwarded by the concerned SDM is against the Schedule Caste status of the OP and in absence of any prescribed procedure for such Committee meeting, there is no reason not to believe the finding of the SC Welfare Sub-Committee. Particularly when there is no counter evidence to disbelieve the resolution of the SC Welfare Sub-Committee, the findings of the Committee can be believed.

Most importantly, the full blooded brother of the Opposite Party namely Sri Ratan Sarkar while surrendering his SC Certificate, with an affidavit, categorically stated that he belongs to OBC Kapali Community and in the 'Final Order' in that case, this Committee came to the conclusion that Shri Ratan Sarkar does not belong to Schedule Caste Community. It is crystal clear that, if one brother is not an SC, the other is not an SC, and that is obvious without any other evidence.

In presence of the observation and findings of the SLSC in the case of the full blooded brother of the OP and observation of the local SC Welfare Sub-Committee, it can be safely stated that there is sufficient evidence on record to disbelieve the Caste status of the Opposite Party.

10. The State Level Scrutiny Committee, after careful consideration of the fact, records and statements of witnesses came to the conclusion that the O.P·Shri Bimal Chandra Sarkar does not belong to Scheduled Caste but he belongs to OBC Kapall Community. Thus, the SC Certificate bearing No.08/SDO/DMN/TW/80 dated 15-1-1981 issued in favour of Shri Bimal Chandra Sarkar, S/o. Sri Amulya Sarkar of Vill-Nalkata, North

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Tripura Gazette, Extraordinary Issue, March 4, 2024 A. D.

16.02.2024	Tripura by the then Sub-Divisional Officer, Dharmanagar, North Tripura is cancelled and it should be confiscated. The Committee also directs to inform all concerned authorities, to take appropriate action in accordance with sub-rule (8) and (9) of Rule 7A of the SCs and STs	
	Reservation Rules, 1992. Issue copy of the order to the certificate Issuing Authority for making an entry to the relevant register. Supply a copy of this order to the OP, Shri Bimal Chandra Sarkar, the complainant and all other necessary authorities.	. *
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Typed to the dictation & corrected by us.

(Deputy Director, SC Welfare Deptt.)

(Principal Secretary, SC Welfare Deptt.)